

Court No. 2

In The High Court of Uttaranchal at Nainital.

(1)Appeal from order No. 77 of 2003.

Union of India through E.E.
IDSE, Garrison Engineer, Clement
Town, District-Dehradun. Appellant.

Versus

1.Mact/Addl. District Judge/IV F.T.C., Dehradun,
2.Smt. Alka Sharma W/o late Sri Virendra Kr. Sharma,
3.Km. Avima Sharma D/o late Sri Virendra Kr.Sharma,
4.Master Avijeet Sharma S/o Late Sri Virendra Kr. Sharma
All R/o Pradeep Bhawan, Chakrata District-Dehradun.
..... Respondents

(2) Appeal from Order No. 74 of 2003

Union of India through E.E.
IDSE, Garrison Engineer, Clement
Town, District-Dehradun. Appellant.

Versus

1.MACT/Addl. District Judge/IV F.T.C., Dehradun,
2.Smt. Usha Mohal W/o late Sri Rajendra Prasad,
3.Master Deepak S/o Late Sri Rajendra Prasad
4. Master Ankit S/o Late Sri Rajendra Prasad
5. Sri Sarwan Das S/o Sri Telu Ram,
6. Smt. Seela Devi W/o Sri Sarwan Das,
All R/o 155 Sadar Bazar, Chakrata, Distt.-Dehradun.
..... Respondents

AND

(3) Appeal from Order No. 75 of 2003

Union of India through E.E.
IDSE, Garrison Engineer, Clement
Town, District-Dehradun. Appellant.

Versus

1. MACT/Addl. District Judge/IV F.T.C., Dehradun,
2. Smt. Asha Chandra W/o late Sri Govind Ram Chandra,
3. Sri Rahul Chandra S/o late Sri Govind Ram Chandra,
4. Sri Dinesh Chandra S/o Late Sri Govind Ram Chandra,
5. Sri Brijesh Chandra S/o Sri Govind Ram Chandra,
All R/o 60, Sadar Bazar, Chakrata, Distt.-Dehradun.
..... Respondents

Standing counsel (central Govt.) for the appellant.
Sri B.P.Nautiyal, learned counsel for the claimant/respondents..

Dated: 23rd Aug., 2004.

Hon'ble P.C.verma, J.

Hon'ble B.S.Verma, J.

These appeals have been filed by the appellant-Union of India against the separate judgment and awards passed by Motor Accident Claims Tribunal / Addl. District Judge, Dehradun (*hereinafter referred to as the Tribunal*) in Motor Accident Claim Case Nos. 257 of 1994, 259 of 1994 and 258 of 1994 respectively on 22.01.2003.

2. The Motor Accident Claims Tribunal allowed the claim petitions of the claimants granting them compensation with interest at the rate of 6% per annum from the date of filing of the claim petitions till the date of payment. The deceased passengers were traveling in military vehicle Truck No.78-E-20896-M from Korwa to Chakrata, The said truck met with an accident near Browari on 06.3.1994 due to rash and negligent driving by its driver Pratap Singh and it fell down in the Khud causing the death of passengers on the spot.

3. We have heard the learned counsel for the parties. Learned counsel for the appellant argued on the grounds taken in the appeals that the vehicle was not a commercial vehicle and that since the offending truck was a military vehicle, it was not used for carrying public passengers. It was further contended that no evidence has been recorded which suggests that the deceased were the occupants in the ill-fated vehicle or that they were traveling with permission of the authorized officer. The passengers were gratuitous passengers, therefore no compensation could be paid.

4- We have gone through the impugned judgments and the findings recorded by the learned Tribunal. There is no case of appellant before the Tribunal that the deceased persons were traveling in the offending truck without the consent or knowledge of the driver. Further the appellant has not led any such evidence before the learned Tribunal, which could be sufficient to hold that the employees of the appellant had resisted the entrance of the deceased persons in the truck before it met with the accident. The appellant has produced Sri M.K. Goel as D.W.1 before the Tribunal. From the perusal of the testimony of this witness, the argument of the appellant is not substantiated. It is a thing of common knowledge that in the military vehicles, civilians cannot have access without the consent of the occupants of the military truck. The important circumstance, which goes against the appellant, is that it is admitted to them that all the deceased has died in the accident involving the military truck. From the side of the appellant, no such evidence has been led to explain as to how the unauthorized persons, i.e. deceased persons, has dare to travel by a military vehicle. Moreover, it is also not a case of the Opp. party-appellant that the truck involved in the accident was exclusively a goods carrier. All these circumstances coupled with the testimony of P.W.2, Digamber Chauhan who has given ocular account of the accident, are sufficient to discard the submission made on behalf of the appellant. We are not inclined to interfere with the findings given by the Tribunal on issue Nos. 1 & 2 in the cases under appeals.

5- So far as the submission challenging the quantum of compensation is concerned, we find nothing to disagree with the findings regarding determination of compensation of the learned Tribunal. Considering the

entire material, we find that the amount of compensation awarded in each case is just and supported by evidence on record.

6- No other point is pressed.

7. In the result, the appeals are devoid of merit and are dismissed. The impugned judgment and orders under appeals are upheld. No order as to costs. The amount, if deposited in this Court shall be transmitted to the Motor Accident Claims Tribunal concerned within two months from the date of order, for which the claimants shall be at liberty to withdraw the same.

(B.S. Verma, J.)

(P.C. Verma, J.)

P. Singh